

REFERENCE TITLE: sex offenders; harboring; monitoring

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2380

Introduced by
Representative Paton, Senators Bee: Jarrett

AN ACT

AMENDING SECTIONS 13-603, 13-901, 31-411 AND 41-1604.07, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3829; AMENDING TITLE 41, CHAPTER 7, ARTICLE 10.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1279.08; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1604.08; MAKING AN APPROPRIATION; RELATING TO SEX OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-603, Arizona Revised Statutes, is amended to
3 read:

4 13-603. Authorized disposition of offenders

5 A. Every person convicted of any offense defined in this title or
6 defined outside this title shall be sentenced in accordance with this chapter
7 and chapters 7, 8 and 9 of this title unless otherwise provided by law.

8 B. If a person is convicted of an offense, the court, if authorized by
9 chapter 9 of this title, may suspend the imposition or execution of sentence
10 and grant ~~such~~ THE person a period of probation except as otherwise provided
11 by law. The sentence is tentative to the extent that it may be altered or
12 revoked in accordance with chapter 9 of this title, but for all other
13 purposes it is a final judgment of conviction.

14 C. If a person is convicted of an offense, the court shall require the
15 convicted person to make restitution to the person who is the victim of the
16 crime or to the immediate family of the victim if the victim has died, in the
17 full amount of the economic loss as determined by the court and in the manner
18 as determined by the court or the court's designee pursuant to chapter 8 of
19 this title. Restitution ordered pursuant to this subsection shall be paid to
20 the clerk of the court for disbursement to the victim and is a criminal
21 penalty for the purposes of a federal bankruptcy involving the person
22 convicted of an offense.

23 D. If the court imposes probation it may also impose a fine as
24 authorized by chapter 8 of this title.

25 E. If a person is convicted of an offense and not granted a period of
26 probation, or when probation is revoked, any of the following sentences may
27 be imposed:

28 1. A term of imprisonment authorized by this chapter or chapter 7 of
29 this title.

30 2. A fine authorized by chapter 8 of this title. The sentence is
31 tentative to the extent it may be modified or revoked in accordance with
32 chapter 8 of this title, but for all other purposes it is a final judgment of
33 conviction. If the conviction is of a class 2, 3 or 4 felony, the sentence
34 cannot consist solely of a fine.

35 3. Both imprisonment and a fine.

36 4. Intensive probation, subject to ~~the provisions of~~ chapter 9 of this
37 title.

38 5. Intensive probation, subject to ~~the provisions of~~ chapter 9 of this
39 title, and a fine.

40 6. A new term of probation or intensive probation.

41 F. If an enterprise is convicted of any offense, a fine may be imposed
42 as authorized by chapter 8 of this title.

43 G. If a person or an enterprise is convicted of any felony, the court
44 ~~may~~, in addition to any other sentence authorized by law, MAY order the
45 forfeiture, suspension or revocation of any charter, license, permit or prior

1 approval granted to the person or enterprise by any department or agency of
2 the state or of any political subdivision.

3 H. A court authorized to pass sentence upon a person convicted of any
4 offense defined within or without this title shall have a duty to determine
5 and impose the punishment prescribed for such offense.

6 I. If a person is convicted of a felony offense and the court
7 sentences the person to a term of imprisonment, the court at the time of
8 sentencing shall impose on the convicted person a term of community
9 supervision. The term of community supervision shall be served consecutively
10 to the actual period of imprisonment if the person signs and agrees to abide
11 by conditions of supervision established by the state department of
12 corrections. Except pursuant to subsection J, the term of community
13 supervision imposed by the court shall be for a period equal to one day for
14 every seven days of the sentence or sentences imposed. IF THE PERSON WAS
15 CONVICTED OF AN OFFENSE THAT REQUIRES THE PERSON TO REGISTER PURSUANT TO
16 CHAPTER 38, ARTICLE 3 OF THIS TITLE, THE COURT SHALL ORDER ELECTRONIC
17 MONITORING AS A CONDITION OF COMMUNITY SUPERVISION.

18 J. In calculating the term of community supervision, all fractions
19 shall be decreased to the nearest month, except for a class 5 or 6 felony
20 which shall not be less than one month.

21 K. Notwithstanding subsection I, if the court sentences a person to
22 serve a consecutive term of probation immediately after the person serves a
23 term of imprisonment, the court may waive community supervision and order
24 that the person begin serving the term of probation upon the person's release
25 from confinement. The court may retroactively waive the term of community
26 supervision or that part remaining to be served if the community supervision
27 was imposed before July 21, 1997. If the court waives community supervision,
28 the term of probation imposed shall be equal to or greater than the term of
29 community supervision that would have been imposed. If the court does not
30 waive community supervision, the person shall begin serving the term of
31 probation after the person serves the term of community supervision. The
32 state department of corrections shall provide reasonable notice to the
33 probation department of the scheduled release of the inmate from confinement
34 by the department.

35 L. If at the time of sentencing the court is of the opinion that a
36 sentence that the law requires the court to impose is clearly excessive, the
37 court may enter a special order allowing the person sentenced to petition the
38 board of executive clemency for a commutation of sentence within ninety days
39 after the person is committed to the custody of the state department of
40 corrections. If the court enters a special order regarding commutation, the
41 court shall set forth in writing its specific reasons for concluding that the
42 sentence is clearly excessive. The court shall allow both the state and the
43 victim to submit a written statement on the matter. The court's order, and
44 reasons for its order, and the statements of the state and the victim shall
45 be sent to the board of executive clemency.

1 Sec. 2. Section 13-901, Arizona Revised Statutes, is amended to read:

2 13-901. Probation

3 A. If a person who has been convicted of an offense is eligible for
4 probation, the court may suspend the imposition or execution of sentence and,
5 if so, shall without delay place such person on intensive probation
6 supervision pursuant to section 13-913 or supervised or unsupervised
7 probation upon such terms and conditions as the law requires and the court
8 deems appropriate, including participation in any programs authorized in
9 title 12, chapter 2, article 11. If a person is not eligible for probation,
10 imposition or execution of sentence shall not be suspended or delayed. If
11 the court imposes probation, it may also impose a fine as authorized by
12 chapter 8 of this title. If probation is granted the court shall impose a
13 condition that the person waive extradition for any probation revocation
14 procedures and it shall order restitution pursuant to section 13-603,
15 subsection C where there is a victim who has suffered economic loss. When
16 granting probation to an adult the court ~~shall~~, as a condition of probation,
17 SHALL assess a monthly fee of not less than fifty dollars unless, after
18 determining the inability of the probationer to pay the fee, the court
19 assesses a lesser fee. In justice and municipal courts, the fee shall only
20 be assessed when the person is placed on supervised probation. For persons
21 placed on probation in the superior court, the fee shall be paid to the clerk
22 of the superior court and the clerk of the court shall pay all monies
23 collected from this fee to the county treasurer for deposit in the adult
24 probation services fund established by section 12-267. For persons placed on
25 supervised probation in the justice court, the fee shall be paid to the
26 justice court and the justice court shall transmit all of the monies to the
27 county treasurer for deposit in the adult probation services fund established
28 by section 12-267. For persons placed on supervised probation in the
29 municipal court, the fee shall be paid to the municipal court. The municipal
30 court shall transmit all of the monies to the city treasurer who shall
31 transmit the monies to the county treasurer for deposit in the adult
32 probation services fund established by section 12-267. Any amount greater
33 than forty dollars of the fee assessed pursuant to this subsection shall only
34 be used to supplement monies currently used for the salaries of adult
35 probation and surveillance officers and for support of programs and services
36 of the superior court adult probation departments.

37 B. The period of probation shall be determined according to section
38 13-902.

39 C. The court may in its discretion issue a warrant for the rearrest of
40 the defendant and may modify or add to the conditions or, if the defendant
41 commits an additional offense or violates a condition, may revoke probation
42 in accordance with the rules of criminal procedure at any time prior to the
43 expiration or termination of the period of probation. If the court revokes
44 the defendant's probation and the defendant is serving more than one
45 probationary term concurrently, the court may sentence the person to terms of

1 imprisonment to be served consecutively. IF THE DEFENDANT IS REQUIRED TO
 2 REGISTER PURSUANT TO CHAPTER 38, ARTICLE 3 OF THIS TITLE AND THE DEFENDANT'S
 3 PROBATION IS REVOKED, THE COURT, IF IT IMPOSES A SUBSEQUENT TERM OF
 4 SUPERVISION FOLLOWING THE REVOCATION OF PROBATION, SHALL ORDER ELECTRONIC
 5 MONITORING AS A CONDITION OF THE SUBSEQUENT TERM OF PROBATION.

6 D. At any time during the probationary term of the person released on
 7 probation, any probation officer ~~may~~, without warrant or other process, at
 8 any time until the final disposition of the case, MAY rearrest any person and
 9 bring the person before the court.

10 E. The court, on its own initiative or upon application of the
 11 probationer, after notice and an opportunity to be heard for the prosecuting
 12 attorney, and on request, the victim, may terminate the period of probation
 13 or intensive probation and discharge the defendant at a time earlier than
 14 that originally imposed if in the court's opinion the ends of justice will be
 15 served and if the conduct of the defendant on probation warrants it.

16 F. When granting probation the court may require that the defendant be
 17 imprisoned in the county jail at whatever time or intervals, consecutive or
 18 nonconsecutive, the court shall determine, within the period of probation, as
 19 long as the period actually spent in confinement does not exceed one year or
 20 the maximum period of imprisonment permitted under chapter 7 of this title,
 21 whichever is the shorter.

22 G. If restitution is made a condition of probation, the court shall
 23 fix the amount of restitution and the manner of performance pursuant to ~~the~~
 24 ~~provisions of~~ chapter 8 of this title.

25 H. When granting probation, the court shall set forth at the time of
 26 sentencing and on the record the factual and legal reasons in support of each
 27 sentence.

28 I. If the defendant meets the criteria set forth in section 13-901.01
 29 or 13-3422, the court may place the defendant on probation pursuant to either
 30 section. If a defendant is placed on probation pursuant to section 13-901.01
 31 or 13-3422, the court may impose any term of probation that is authorized
 32 pursuant to this section ~~which~~ AND THAT is not in violation of section
 33 13-901.01.

34 Sec. 3. Title 13, chapter 38, article 3, Arizona Revised Statutes, is
 35 amended by adding section 13-3829, to read:

36 13-3829. Harboring or concealing sex offenders; classification

37 A. IF A PERSON HAS REASON TO BELIEVE THAT AN OFFENDER WHO IS REQUIRED
 38 TO REGISTER UNDER THIS ARTICLE IS NOT COMPLYING OR HAS FAILED TO COMPLY WITH
 39 THE REQUIREMENTS OF THIS ARTICLE AND THE PERSON INTENDS TO ASSIST THE
 40 OFFENDER IN ELUDING A LAW ENFORCEMENT AGENCY THAT IS SEEKING TO FIND THE
 41 OFFENDER TO QUESTION THE OFFENDER ABOUT OR TO ARREST THE OFFENDER FOR
 42 NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE, IT IS UNLAWFUL FOR THE
 43 PERSON TO DO ANY OF THE FOLLOWING:

1 1. WITHHOLD INFORMATION FROM OR FAIL TO NOTIFY THE LAW ENFORCEMENT
2 AGENCY ABOUT THE OFFENDER'S NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS
3 ARTICLE AND, IF KNOWN, THE WHEREABOUTS OF THE OFFENDER.

4 2. HARBOR OR ATTEMPT TO HARBOR OR ASSIST ANOTHER PERSON IN HARBORING
5 OR ATTEMPTING TO HARBOR THE OFFENDER.

6 3. CONCEAL OR ATTEMPT TO CONCEAL OR ASSIST ANOTHER PERSON IN
7 CONCEALING OR ATTEMPTING TO CONCEAL THE OFFENDER.

8 4. PROVIDE INFORMATION TO THE LAW ENFORCEMENT AGENCY REGARDING THE
9 OFFENDER THAT THE PERSON KNOWS TO BE FALSE.

10 B. THIS SECTION DOES NOT APPLY IF THE OFFENDER IS INCARCERATED IN OR
11 IN THE CUSTODY OF A STATE CORRECTIONAL FACILITY, A PRIVATE PRISON, A LOCAL
12 JAIL OR A FEDERAL CORRECTIONAL FACILITY.

13 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS ____ FELONY.

14 Sec. 4. Section 31-411, Arizona Revised Statutes, is amended to read:

15 31-411. Parole or discharge; conditions of parole; release
16 under supervision of state department of corrections;
17 notice of hearing; exceptions

18 A. Any prisoner who has been certified as eligible for parole or
19 absolute discharge from imprisonment pursuant to section 31-412, subsection B
20 or section 41-1604.09 shall be given an opportunity to apply for release upon
21 parole or for an absolute discharge from imprisonment. The board of
22 executive clemency shall not entertain any other form of application or
23 petition for the release upon parole or absolute discharge from imprisonment
24 of any prisoner.

25 B. A prisoner who is eligible for parole or absolute discharge from
26 imprisonment shall be given an opportunity to be heard either before a
27 hearing officer designated by the board or the board itself, at the
28 discretion of the board.

29 C. If the hearing is heard by a hearing officer, the hearing officer
30 shall make a recommendation on application for parole or absolute discharge
31 from imprisonment to the board within thirty days after the hearing
32 date. Within thirty days after the date of the hearing officer's
33 recommendations, the board shall review these recommendations and either
34 approve, with or without conditions, or reject the prisoner's application for
35 parole or absolute discharge from imprisonment. A prisoner who is eligible
36 for parole or absolute discharge from imprisonment shall not be denied parole
37 or absolute discharge from imprisonment without an opportunity to be heard
38 before the board unless another form of release has been granted.

39 D. If parole is granted, the prisoner shall remain on parole unless
40 the board revokes the parole or grants an absolute discharge from parole or
41 until the prisoner reaches the individual earned release credit date pursuant
42 to section 41-1604.10. If the prisoner violates a condition of parole but
43 has not committed an additional offense, the board may place the prisoner on
44 electronic monitoring and order the defendant to participate in a community
45 accountability program pursuant to section 41-1609.05. If the prisoner is

1 still on parole on reaching the individual earned release credit date
2 pursuant to section 41-1604.10, the prisoner shall be terminated from parole
3 but shall be subject to revocation under section 41-1604.10. When the
4 prisoner reaches the individual earned release credit date the prisoner's
5 parole shall be terminated and the prisoner shall no longer be under the
6 authority of the board.

7 E. During the period of time that the prisoner remains on supervised
8 parole under subsection D of this section, the board shall require as a
9 condition of parole that the prisoner pay a monthly supervision fee of not
10 less than thirty dollars unless, after determining the inability of the
11 prisoner to pay the fee, the board requires payment of a lesser amount. The
12 supervising parole officer shall monitor the collection of the fee. The
13 board may also impose any conditions of parole it deems appropriate in order
14 to ensure that the best interests of the prisoner and the citizens of this
15 state are served. These conditions **SHALL INCLUDE PLACEMENT ON ELECTRONIC**
16 **MONITORING FOR A PRISONER WHO WAS CONVICTED OF AN OFFENSE THAT REQUIRES THE**
17 **PRISONER TO REGISTER PURSUANT TO TITLE 13, CHAPTER 38, ARTICLE 3 AND** may
18 include:

- 19 1. Participation in a rehabilitation program or counseling.
- 20 2. Performance of community restitution work.

21 F. Monies collected pursuant to subsection E of this section shall be
22 deposited, pursuant to sections 35-146 and 35-147, in the victim compensation
23 and assistance fund established by section 41-2407.

24 G. When parole or absolute discharge from imprisonment is denied, the
25 board, within ten days, shall prepare and deliver to the director of the
26 state department of corrections a written statement specifying the
27 individualized reasons for the denial of parole or absolute discharge from
28 imprisonment unless another form of release has been granted. The prisoner
29 may view the written statement prepared by the board. Every prisoner, having
30 served not less than one year, may be temporarily released according to the
31 rules of the department one hundred eighty days before the expiration of the
32 sentence or the earned release credit date, whichever first occurs, if the
33 director finds that the release is in the best interest of the state. The
34 releasee shall remain under the control of the state department of
35 corrections until expiration of the term specified in the sentence. If the
36 releasee violates any condition of release, the releasee may be returned to
37 custody without further process.

38 H. When a commutation, absolute discharge from imprisonment or parole
39 is to be considered, the board, on request and before holding a hearing on
40 the commutation, absolute discharge from imprisonment or parole, shall notify
41 the attorney general, the presiding judge of the superior court, the county
42 attorney in the county in which the prisoner requesting a commutation,
43 absolute discharge from imprisonment or parole was sentenced, and the victim
44 of the offense for which the prisoner is incarcerated. The notice to the
45 victim shall be mailed to the last known address. The notice shall state the

1 name of the prisoner requesting the commutation, absolute discharge from
2 imprisonment or parole and shall set the month of hearing on the
3 application. The notice to the victim shall also inform the victim of the
4 victim's right to be present and to submit a written report to the board
5 expressing the victim's opinion concerning the release of the prisoner. No
6 hearing concerning commutations, absolute discharge from imprisonment or
7 parole shall be held until fifteen days after the date of giving the
8 notice. On mailing the notice, the board shall file a hard copy of the
9 notice as evidence that notification was sent.

10 I. The provisions of this section requiring notice to the officials
11 named in subsection H of this section shall not apply:

12 1. When there is imminent danger of the death of the person convicted
13 or imprisoned.

14 2. When the term of imprisonment of the applicant is within two
15 hundred ten days of expiration.

16 Sec. 5. Title 41, chapter 7, article 10.1, Arizona Revised Statutes,
17 is amended by adding section 41-1279.08, to read:

18 41-1279.08. Sex offender registration; community notification;
19 audit

20 A. EVERY THREE YEARS, THE AUDITOR GENERAL SHALL CONDUCT AN AUDIT OF
21 AND ISSUE A REPORT ON THE EFFECTIVENESS OF THIS STATE'S SEX OFFENDER
22 REGISTRATION PROCESS AND COMMUNITY NOTIFICATION PROCEDURES. IN MAKING ITS
23 DETERMINATION, THE AUDITOR GENERAL SHALL EXAMINE THE CURRENT PRACTICES OF THE
24 STATE DEPARTMENT OF CORRECTIONS, COUNTY PROBATION OFFICES, CLERKS OF COURT,
25 COURT ADMINISTRATORS, COUNTY JAILS AND BOOKING FACILITIES, THE DEPARTMENT OF
26 PUBLIC SAFETY, THE ATTORNEY GENERAL, COUNTY ATTORNEYS' OFFICES AND LOCAL LAW
27 ENFORCEMENT AGENCIES AS THEY RELATE TO THE FOLLOWING:

28 1. SHARING OF SEX OFFENDER INFORMATION REGARDING REGISTERED SEX
29 OFFENDERS FOR THE PURPOSES OF FULFILLING THE REQUIREMENTS OF THIS STATE'S
30 REGISTRATION LAWS.

31 2. ENSURING THAT THE MOST ACCURATE, CURRENT AND COMPREHENSIVE
32 INFORMATION IS PROVIDED IN A TIMELY MANNER TO THE SEX OFFENDER REGISTRY.

33 3. ENSURING THE EFFECTIVE SUPERVISION AND SUBSEQUENT MONITORING OF SEX
34 OFFENDERS.

35 4. ENSURING THAT INFORMED DECISIONS ARE MADE AT EACH POINT OF THE
36 CRIMINAL JUSTICE AND REGISTRATION PROCESS.

37 B. IN ADDITION TO DETERMINING THE EFFECTIVENESS OF THE REGISTRATION
38 PROCESS, THE REPORT SHALL DETERMINE WHETHER THE CURRENT COMMUNITY
39 NOTIFICATION PROCEDURES ARE SUFFICIENT TO APPRISE COMMUNITIES OF THE PRESENCE
40 OF SEX OFFENDERS. THE REPORT SHALL EXAMINE HOW LOCAL LAW ENFORCEMENT AGENCIES
41 COLLECT AND DISSEMINATE INFORMATION IN AN EFFORT TO NOTIFY COMMUNITIES OF THE
42 PRESENCE OF SEX OFFENDERS. IF THE REPORT FINDS DEFICIENCIES IN THE
43 REGISTRATION PROCESS OR THE NOTIFICATION PROCEDURES, OR BOTH, THE REPORT
44 SHALL PROVIDE OPTIONS FOR CORRECTING THOSE DEFICIENCIES AND SHALL INCLUDE THE
45 PROJECTED COST OF IMPLEMENTING THOSE OPTIONS.

1 C. IN CONDUCTING THE AUDIT, THE AUDITOR GENERAL MAY CONSULT WITH
2 PUBLIC OR PRIVATE ENTITIES THAT HAVE EXPERIENCES AND PERSPECTIVES UNIQUE TO
3 THIS AREA OF RESEARCH.

4 D. THE AUDITOR GENERAL SHALL SUBMIT THE REPORT TO THE SPEAKER OF THE
5 HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE AND THE GOVERNOR ON OR
6 BEFORE JANUARY 1, 2009 AND JANUARY 1 OF EACH THIRD YEAR THEREAFTER AND SHALL
7 PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF
8 THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

9 Sec. 6. Section 41-1604.07, Arizona Revised Statutes, is amended to
10 read:

11 41-1604.07. Earned release credits; forfeiture; restoration

12 A. Pursuant to rules adopted by the director, each prisoner in the
13 eligible earned release credit class shall be allowed an earned release
14 credit of one day for every six days served, including time served in county
15 jails, except for those prisoners who are sentenced to serve the full term of
16 imprisonment imposed by the court.

17 B. Release credits earned by a prisoner pursuant to subsection A of
18 this section shall not reduce the term of imprisonment imposed by the court
19 on the prisoner.

20 C. On reclassification of a prisoner resulting from the prisoner's
21 failure to adhere to the rules of the department or failure to demonstrate a
22 continual willingness to volunteer for or successfully participate in a work,
23 educational, treatment or training program, the director may declare all
24 release credits earned by the prisoner forfeited. In the discretion of the
25 director forfeited release credits may subsequently be restored. The
26 director shall maintain an account of release credits earned by each
27 prisoner.

28 D. A prisoner who has reached the prisoner's earned release date or
29 sentence expiration date shall be released to begin the prisoner's term of
30 community supervision imposed by the court or term of probation if the court
31 waived community supervision pursuant to section 13-603, except that the
32 director may deny or delay the prisoner's release to community supervision or
33 probation if the director believes the prisoner may be a sexually violent
34 person as defined in section 36-3701 until the screening process is complete
35 and the director determines that the prisoner will not be referred to the
36 county attorney pursuant to section 36-3702. If the term of community
37 supervision is waived, the state department of corrections shall provide
38 reasonable notice to the probation department of the scheduled release of the
39 prisoner from confinement by the department. If the court waives community
40 supervision, the director shall issue the prisoner an absolute discharge on
41 the prisoner's earned release credit date. A prisoner who is released on the
42 earned release credit date to serve a term of probation is not under the
43 control of the state department of corrections when community supervision has
44 been waived and the state department of corrections is not required to
45 provide parole services.

1 E. Notwithstanding subsection D of this section, a prisoner who fails
2 to achieve functional literacy at an eighth grade literacy level shall not be
3 released to begin the prisoner's term of community supervision until either
4 the prisoner achieves an eighth grade functional literacy level as measured
5 by standardized assessment testing or the prisoner serves the full term of
6 imprisonment imposed by the court, whichever first occurs. This subsection
7 does not apply to inmates who are any of the following:

8 1. Unable to meet the functional literacy standard required by section
9 31-229.02, subsection A, due to a medical, developmental or learning
10 disability as described in section 31-229, subsection C.

11 2. Classified as level five offenders.

12 3. Foreign nationals.

13 4. Inmates who have less than six months incarceration to serve on
14 commitment to the department.

15 F. The department shall establish conditions of community supervision
16 it deems appropriate in order to ensure that the best interests of the
17 prisoner and the citizens of this state are served. These conditions **SHALL**
18 **INCLUDE ELECTRONIC MONITORING FOR PRISONERS WHO ARE ORDERED BY THE COURT**
19 **PURSUANT TO SECTION 13-603 TO BE ELECTRONICALLY MONITORED AND** may include
20 participation in a rehabilitation program or counseling and performance of
21 community restitution work, except that if the prisoner was convicted of a
22 violation of sexual conduct with a minor under fifteen years of age or
23 molestation of a child under fifteen years of age, the department shall
24 impose as a condition of community supervision a prohibition on residing
25 within four hundred forty feet of a school or its accompanying grounds. If a
26 prisoner who reaches the prisoner's earned release credit date refuses to
27 sign and agree to abide by the conditions of supervision before release on
28 community supervision, the prisoner shall not be released. When the prisoner
29 reaches the sentence expiration date, the prisoner shall be released to begin
30 the term of community supervision. If the prisoner refuses to sign and agree
31 to abide by the conditions of release, the prisoner shall not be released on
32 the sentence expiration date and shall serve the term of community
33 supervision in prison. The department is required to supervise any offender
34 on community supervision until the period of community supervision expires.
35 The department may bring an offender in violation of the offender's terms and
36 conditions before the board of executive clemency. For the purposes of this
37 subsection, "school" means any public, charter or private school where
38 children attend classes.

39 G. The director pursuant to rules adopted by the department shall
40 authorize the release of any prisoner on the prisoner's earned release credit
41 date to serve any consecutive term imposed on the prisoner. The release
42 shall be for the sentence completed only. The prisoner shall remain under
43 the custody and control of the department. The director may authorize the
44 rescission of the release to any consecutive term if the prisoner fails to
45 adhere to the rules of the department.

H. If a prisoner absconds from community supervision, any time spent before the prisoner is returned to custody is excluded in calculating the remaining period of community supervision.

I. A prisoner shall forfeit five days of the prisoner's earned release credits:

1. If the court finds or a disciplinary hearing held after a review by and recommendations from the attorney general's office determines that the prisoner does any of the following:

- (a) Brings a claim without substantial justification.
- (b) Unreasonably expands or delays a proceeding.
- (c) Testifies falsely or otherwise presents false information or material to the court.
- (d) Submits a claim that is intended solely to harass the party it is filed against.

2. For each time the prisoner tests positive for any prohibited drugs during the period of time the prisoner is incarcerated.

J. If the prisoner does not have five days of earned release credits, the prisoner shall forfeit the prisoner's existing earned release credits and shall be ineligible from accruing earned release credits until the number of earned release credits the prisoner would have otherwise accrued equals the difference between five days and the number of existing earned release credit days the prisoner forfeits pursuant to this section.

K. The director may authorize temporary release on inmate status of eligible inmates pursuant to rules adopted by the director within ninety days of any other authorized release date. The release authorization applies to any inmate who has been convicted of a drug offense, who has been determined to be eligible for participation in the transition program pursuant to section 31-281 and who has agreed to participate in the transition program.

Sec. 7. Title 41, chapter 11, article 1, Arizona Revised Statutes, is amended by adding section 41-1604.08, to read:

41-1604.08. Electronic monitoring; violation; classification

A. THE DEPARTMENT SHALL MONITOR ALL OFFENDERS WHO ARE REQUIRED TO REGISTER PURSUANT TO TITLE 13, CHAPTER 38, ARTICLE 3 AND WHO ARE PLACED ON ELECTRONIC MONITORING. THE DEPARTMENT SHALL USE A SYSTEM THAT ACTIVELY MONITORS AND IDENTIFIES THE OFFENDER'S LOCATION AND TIMELY REPORTS OR RECORDS THE OFFENDER'S PRESENCE NEAR OR WITHIN A CRIME SCENE OR IN A PROHIBITED AREA OR THE OFFENDER'S DEPARTURE FROM SPECIFIED GEOGRAPHIC LIMITATIONS.

B. A PERSON WHO INTENTIONALLY ALTERS, TAMPERS WITH, DAMAGES OR DESTROYS ANY ELECTRONIC MONITORING EQUIPMENT IS GUILTY OF A CLASS ____ FELONY UNLESS THE PERSON IS THE OWNER OF THE ELECTRONIC MONITORING EQUIPMENT, OR AN AGENT OF THE OWNER, AND THE PERSON IS PERFORMING ORDINARY MAINTENANCE OR REPAIRS.

Sec. 8. Sex offender task force; report

A. The sex offender task force is established in the department of public safety for the purpose of examining the collection and dissemination

1 of offender information within the criminal justice system and community.
2 The task force shall recommend strategies and actions that may be implemented
3 to enhance coordination and cooperation among the various entities within the
4 criminal justice system with a common goal of public safety.

5 B. The task force consists of the following members:

6 1. The attorney general or the attorney general's designee.

7 2. The director of the department of public safety or the director's
8 designee.

9 3. The director of the board of executive clemency or the director's
10 designee.

11 4. The director of the state department of corrections or the
12 director's designee.

13 5. The director of the department of juvenile corrections or the
14 director's designee.

15 6. The director of the administrative office of the courts or the
16 director's designee.

17 7. One county attorney who is appointed by the governor.

18 8. One public defender who is appointed by the governor.

19 9. Two sheriffs who are appointed by the governor.

20 10. Two chiefs of police who are appointed by the governor.

21 11. One clerk of the superior court who is appointed by the governor.

22 C. The task force shall study and take testimony regarding:

23 1. The collection and dissemination of offender information, including
24 criminal history, to:

25 (a) The court, prosecuting attorney and defense counsel at first
26 appearance hearings.

27 (b) The court, prosecuting attorney and defense counsel at all court
28 appearances subsequent to the first appearance.

29 (c) County probation officers or officials.

30 2. Any other subject that the task force deems relevant to the
31 collection and dissemination of offender information within the criminal
32 justice system and community.

33 D. The task force shall submit a preliminary report of its findings
34 and recommendations to the speaker of the house of representatives, the
35 president of the senate and the governor at least forty-five days before the
36 forty-eighth legislature, first regular session begins and shall submit a
37 final report at least thirty days before the forty-eighth legislature, first
38 regular session begins. If the final report makes recommendations that
39 require proposed rules or legislation, the final report shall include a draft
40 of the proposed rules and legislation. The task force shall submit a copy of
41 the final report to the secretary of state and the director of the Arizona
42 state library, archives and public records.

43 E. Each state agency shall cooperate fully with the task force in the
44 performance of its duties.

1 Sec. 9. Appropriation: purpose: exemption

2 A. The sum of \$_____ is appropriated from the state general fund in
3 fiscal year 2006-2007 to the state department of corrections for the purpose
4 of funding electronic monitoring of sex offenders.

5 B. The appropriation made in subsection A of this section is exempt
6 from the provisions of section 35-190, Arizona Revised Statutes, relating to
7 lapsing of appropriations.

8 Sec. 10. Delayed repeal

9 Section 8 of this act, relating to the sex offender task force, is
10 repealed from and after December 31, 2006.